

R612. Labor Commission, Industrial Accidents.

R612-500. Procedural Guidelines for the Reemployment Act.

R612-500-1. Purpose, Authority and Definitions.

A. These rules guide insurance carriers and employers in complying with reporting and other requirements of the Utah Injured Workers Reemployment Act, Title 34A, Chapter 8a, Utah Code Annotated.

B. The Utah Labor Commission enacts these rules under the authority of section 34A-8a-202 and section 34A-8a-203.

C. Definitions established by section 34A-8a-102, section 34A-8a-203(1) and rule R612-1 apply to this rule. The following definitions also apply to this rule:

1. "Insurance Carrier" includes insurance carriers providing workers' compensation coverage and the Uninsured Employers Fund;

2. "Employer" includes self-insured employers and uninsured employers that are paying an injured workers' claim for benefits.

3. "disabled Injured Worker" means an injured worker who:

a. because of the injury or disease that is the basis for the employee being an injured worker:

i. is or will be unable to return to work in the injured worker's usual and customary occupation; or

ii. is unable to perform work for which the injured worker has previous training and experience; and

b. reasonably can be expected to attain gainful employment after an evaluation provided for in accordance with the Utah Injured Worker Reemployment Act, Title 34A, Chapter 8a.

R612-500-2. Form 206-Insurer/Employer Initial Reemployment Report for Injured workers.

A. Pursuant to section 34A-8a-301, a worker who has suffered a work-related injury or disease must be provided an initial written report (Form 206) that assesses the injured worker's need for vocational reemployment assistance. Form 206 is only required in those instances in which:

1. it appears the injured worker is or will be a "disabled injured worker"; or

2. the duration of the injured workers' temporary total disability compensation exceeds 90 days.

B. If the injured worker was covered by workers' compensation insurance at the time of injury or disease or the claim is being paid by the Uninsured employers' Fund (UEF), the insurance carrier or UEF must prepare and submit Form 206. If the injured worker's claim is being paid by a self-insured employer or an uninsured employer, the employer must prepare and submit Form 206.

C. Form 206 must be mailed or otherwise delivered to the injured worker and to the Division within 30 days after the insurance carrier or employer knows or should know that the injured worker's circumstances satisfy either of the conditions described in subsection A. (1) of A. (2).

R612-500-3. Referral of Disabled Injured Worker for Evaluation; Permission to Waive or Postpone Referral.

A. If Form 206 determinates that an injured worker satisfies the definition of a "disabled injured worker", the insurance carrier or employer shall refer the injured worker to the Utah State Office

of Rehabilitation or to a private rehabilitation or reemployment service for evaluation and development of a reemployment plan. This referral must be made within 10 days after the insurance carrier or employer submits Form 206 to the Division unless the Division grants a waiver or postponement as provided in the following subsection B of this rule.

B. Section 34A-8a-302(3) authorizes the Labor Commission through the Division of Industrial Accidents to waive or postpone an insurance carrier or employer's referral obligation. An insurance carrier or employer shall make its request by completing and submitting "Form 215 - Insurer/Employer Request to Waive/Postpone Reemployment Referral" to the Division and mailing a copy of the completed form to the injured worker. The Division will consider such requests on a case-by-case basis. The Division will generally grant requests for waiver or postponement for the following reasons, or for other reasons similarly establishing good cause:

1. the injured worker was not medically stable;
2. the injured worker's physical capacity has not been determined; or
3. liability for the injured worker's claim is under review provided, however, that the Division may require the insurance carrier or employer to refer the injured worker for the free services offered by the Utah State Office of Rehabilitation.

R612-500-4. Form 239-Insurer/Employer Quarterly Report on Reemployment Efforts to the Division; Penalties.

A. Beginning with the calendar quarter commencing on July 1, 2009, and continuing for each quarter thereafter, section 34A-8a-203(2) requires insurance carriers and employers (referred to as "reporting entities") to file quarterly reports enumerating their efforts to return injured workers to gainful employment.

B. Reporting entities shall submit their quarterly reports by completing Form 239 - Insurer/Employer Quarterly Report on Reemployment Efforts, and filing the form with the Division no later than 45 days after the end of each calendar quarter.

C. Section 34A-8a-203(4) requires the Commission to impose a civil penalty of up to \$500 against a reporting entity that fails to file Form 206. Initial proceedings to assess such penalty are hereby designated as informal adjudicatory proceedings, while all subsequent proceedings with respect to assessment of such penalty are hereby designated as formal proceedings.

R612-500-5. Administrative Review.

An injured worker, insurance carrier or employer may submit any dispute arising from the provisions of the Utah Injured Worker Reemployment Act or these rules to the Labor Commission's Adjudication Division for resolution according to the procedures established by the Utah Administrative Procedures Act, Title 63G, Chapter 4, Utah Code Annotated.

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